

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

FERDINAND ANTIGO, ET AL.

PLAINTIFFS

v.

CIVIL ACTION: 1:11-cv-00408-HSO-RHW

MICHAEL LOMBARDI, ET AL.,

DEFENDANTS

EXHIBITS 1 THROUGH 6 IN SUPPORT OF BEAU RIVAGE RESORTS, INC.'S
MOTION FOR SUMMARY JUDGMENT FOR PLAINTIFFS
IRYNA HRYHAROVICH AND MAKSIM MASIYANCHYK

Exhibits 1 through 6 in support of Beau Rivage Resorts, Inc.'s *Motion for Summary Judgment* regarding the Plaintiffs Iryna Hryharovich And Maksim Masiyanchyk are attached.

RESPECTFULLY submitted this, the 29th day of August, 2013.

BEAU RIVAGE RESORTS, INC.

s/John A. Foxworth, Jr.
John A. Foxworth, Jr., Esq.
MS Bar #8944
Foxworth Law Office
1200 East Pass Road
Gulfport, MS 39507
Office: 228-328-0200
john@foxworthlaw.com

Steven R. Cupp, Esq.
MS Bar # 99975
Fisher & Phillips, LLP
2505 14th Street, Suite 202
Gulfport, MS 39501
Office: 228-822-1440
scupp@laborlawyers.com

CERTIFICATE OF SERVICE

I, John A. Foxworth, do hereby certify that I have filed Defendant Beau Rivage Resorts, Inc.'s Beau Rivage's Motion for Summary Judgment against Plaintiffs IRYNA HRYHAROVICH AND MAKSIM MASIYANCHYK with the Clerk of Court via the CM-ECF system which served a copy of same on all registered users.

DATED this, the 29th day of August, 2013.

s/John A. Foxworth, Jr.

John A. Foxworth, Jr., Esq.
MS Bar #8944
Foxworth Law Office
1200 East Pass Road
Gulfport, MS 39507
Office: 228-328-0200
john@foxworthlaw.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

FERDINAND ANTIGO, ET AL.

PLAINTIFFS

VERSUS

CIVIL ACTION NO.: 1:11CV00408-HSO-RHW

MICHAEL V. LOMBARDI, ET AL.

DEFENDANTS

DECLARATION OF ROGENA BARNES

Pursuant to 28 U.S.C. §1746, the following is the Declaration of Rogena Barnes:

1. I, Rogena Barnes, provide the following Declaration, which is based on my personal knowledge.
2. I am of full age of majority and competent to testify.
3. I am currently the Regional Vice President of Human Resources for MGM Resorts International. I am responsible for oversight of the Human Resource functions at MGM's Mississippi properties, including the Beau Rivage in Biloxi, Mississippi.
4. I am familiar with the Agreement that was entered into between the Beau Rivage and Royal Hospitality Services ("RHS") in which RHS contracted with the Beau Rivage to provide workers at the Beau Rivage when needed.
5. When the Beau Rivage needed workers, we would contact RHS or another labor provider to place them on notice that additional workers were needed. When we made the request, we would only ask for workers. We did not inquire as to whether the worker was foreign or whether the worker was local. The workers who were placed at the Beau Rivage by RHS were direct employees of RHS. They were not classified as Beau Rivage employees.
6. Pursuant to RHS' contract with the Beau Rivage's, RHS was contractually responsible to the Beau Rivage for ensuring that all workers who RHS placed at the Beau Rivage were working legally in the United States and were eligible to work at the Beau Rivage. RHS was



also responsible for paying their employees the minimum wage for all hours worked and overtime, if applicable.

7. I understand that the Plaintiffs in this lawsuit utilized the following labor agencies in their home countries in order to procure a job offer in the United States: Adman in the Philippines; Z-Drive in the Philippines; Universe in Belarus; Qui Ka in Indonesia; and Nu Krew in Jamaica. To my knowledge, the Beau Rivage did not and has not performed or engaged in any business with these labor agencies or have any connections to these labor agencies that are located in foreign countries.

8. It is my understanding that the foreign labor agencies listed in Paragraph 7 charged the Plaintiffs various amounts of money in order to obtain a job offer for the Plaintiffs in the United States. The Beau Rivage was never given any money from these labor agencies or any of their agents in exchange for supplying job offers to the agencies or for obtaining workers from these countries to work at the Beau Rivage.

9. All Beau Rivage employees and contract workers who are paid by the hour worked are prohibited from working off-the-clock. During the time that the RHS workers were at the Beau Rivage, I was not aware that any RHS worker was working off-the-clock and I never received any complaint from any RHS worker that they were either forced to work off-the-clock or were allowed to work off-the-clock.

10. All of the RHS workers who worked at the Beau Rivage were entitled to quick snacks and one full meal a day in the Beau Rivage's employee dining room. Access to the employee dining room is a significant benefit available for all Beau Rivage employees and all employees who worked at the Beau Rivage pursuant to their employment relationship with a labor provider. I have inquired with the Beau Rivage's Director of Finance regarding the reasonable cost per day of providing the workers with a meal in the employee dining room. The reasonable cost per day, based on a conservative analysis, is \$7 per day per worker.

I declare under penalty of perjury that the foregoing is true and correct and is based on my personal knowledge.

Executed on August 27, 2013.


Regina Barnes

COPY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

SOUTHERN DIVISION

CIVIL ACTION NO.: 1:11CV00408-HSO-RHW

FERDINAND ANTIGO, ET AL

VERSUS

MICHAEL V. LOMBARDI, ET AL

Deposition of FELICA S. WATKINS,
12485 Briarwood Drive West, Gulfport,
Mississippi 39503, taken at the offices of
FISHER AND PHILLIPS, 2505 14th Street, Suite
202, Gulfport, Mississippi 39501, on Monday,
May 20, 2013.



MISSISSIPPI
228.222.4549

LOUISIANA
504.908.5418



1 Q. And how long did you do that from?

2 A. From the time I started at the Beau
3 in July of '06 up until our H-2Bs left in
4 November of 2007.

5 Q. 2007.

6 Did -- when you say "H-2Bs
7 left," does that mean any H-2B visa workers
8 who were sponsored by Beau Rivage quit working
9 in November 2007?

10 A. Correct. Their -- their contract
11 was over.

12 Q. Okay. Because their visa expired?

13 A. Correct.

14 Q. There were no workers sponsored by
15 Beau Rivage after November 2007?

16 A. We have -- we did use a small group,
17 Work Around the Planet, of 30 H-2Bs, but
18 they -- they were like a vendor.

19 Q. Okay. So no housekeepers?

20 A. They were housekeepers, I believe.

21 Q. Okay. I'm not trying to trick you.

22 A. No, it's fine.

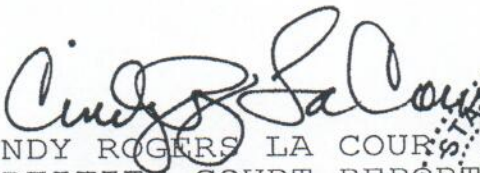

23 Q. I'm just wanting -- because I've
24 seen a lot of documents just this morning, and
25 a lot of them are from 2008, and there's a

REPORTER'S CERTIFICATE

I, CINDY ROGERS LA COUR, C.M.,
Certified Court Reporter and Notary Public of
Harrison County, Mississippi, do hereby
certify that the above-named witness, after
having been first duly sworn by me to testify
to the truth, did testify as hereinabove set
forth;

That the testimony was reported by
me in shorthand and transcribed under my
personal direction and supervision, and is a
true and correct transcript, to the best of my
ability and understanding;

That I am not of counsel, not
related to counsel or the parties hereto, and
not in any way interested in the outcome of
this matter.


CINDY ROGERS LA COUR, C.M.
CERTIFIED COURT REPORTER
Mississippi CSR #1652


My Commission Expires:

June 10, 2017

The Polo Club

Seasonal Work Program - Offer of Employment

Participant Name: EDUARDO P. DEYTIQUEZ

Sending office _____

Participant Information

ID _____

Arrival to USA (mm/dd/yyyy) 11/1/2009

Birth date (mm/dd/yyyy): June 03, 1973

Departure from USA (mm/dd/yyyy) 5/15/2010

Country of origin: Philippines

CC Use Only:

English Skill ☐ Intermediate ☐ Conversational ☒ Advanced

Company Information

Name of Company: The Polo Club

Contact Person: Teri Borowski
Phone: 561-912-1000
Fax: _____

Job Description: Food Server
Responsible for providing friendly, attentive and efficient service to our members/guests and for assuring that all members and guests receive meals that are served according to our standards.

Payment Schedule: Bi-weekly (every other Thursday).

Salary/Wage: \$ 7.50 /hour
(OT: \$ 10.50 /hour)

Physical Address:
5400 Champion Blvd
Boca Raton, FL 33496
Business Description: country club

Pre-requisite & Knowledge Required:
Experience in the specific areas not necessary.
Training is available. **ALL PARTICIPANTS NEED A BACKGROUND CHECK.**

Hours/week: 40h/week, OT potential
Dress Code/Grooming guidelines: Uniform provided. Clean cut, short hair, no jewelry for men. Must be polished and groomed professionally.

***Start / End dates & availability of work may be affected by inclement weather or seasonal demand. ALL employees MUST commit to work through May 15, 2010

English Skills Required: high intermediate.

Food: One free meal per day will be provided.

Housing

Housing is in the immediate area of the club. Housing is in apartments 2 & 3 bedroom/ 2 bathrooms. Two people per room/ own twin bed. All furnishings, washer/dryer included. No deposit. Linens/towels provided. Rent is \$130 per week payroll deducted. Housing is co-ed.

Transportation

Please provide detailed directions to your company. Please use an additional sheet of paper and attach it to this form if needed.

Transportation to and from work:

Nearest airport:

Will be provided by the Polo Club.

Ft. Lauderdale, Florida or West Palm Beach

Signatures

By signing below, I INDICATE THAT I MEET ALL THE NECESSARY REQUIREMENTS AND PREREQUISITES AS OUTLINED, AND THAT I AM AVAILABLE FOR THE ENTIRE EMPLOYMENT PERIOD AS EXPRESSED ABOVE. I understand and accept all working and housing conditions as outlined. I also acknowledge that I accept all of the terms and conditions listed on my original application. Once program attendance has begun, no refunds will be granted, regardless of the length of time remaining for the scheduled program(s). **I FULLY REALIZE THAT I MAY NOT CHANGE HOST COMPANIES.** Leaving a host company without authorization is a violation of the H2B program and will not be tolerated. I understand that I must contact and discuss any problem I may encounter at my job site or with my housing with my U.S. Opportunities Representative. U.S. Opportunities does not have the authority to grant visas.

Participant Name (please print):

EDUARDO P. DEYTIQUEZ

Participant Signature: 

Date (mm/dd/yyyy) OCT / 25 /2009

Overseas contact name (please print): Bia Molina / Mike Lombardi

Overseas contact signature: 

Date (mm/dd/yyyy) ____/____/____

Host company contact name (please print): Teri Borowski

Host company signature: _____

Date (mm/dd/yyyy) ____/____/____

EXHIBIT

"3"

ANTIGO000476

The Polo Club

Seasonal Work Program - Offer of Employment

Participant Name: EDUARDO L. BALLE

Sending office: _____

Participant Information		
ID _____	Arrival to USA (mm/dd/yyyy) _____	11/1/2009
Birth date (mm/dd/yyyy): JANUARY 05, 1975	Departure from USA (mm/dd/yyyy) _____	5/15/2010
Country of origin: Philippines	CC Use Only: _____	
English Skill <input type="checkbox"/> Intermediate <input type="checkbox"/> Conversational <input checked="" type="checkbox"/> Advanced		

Company Information		
Name of Company: The Polo Club		
Contact Person: Teri Borowski Phone: 561-912-1000 Fax: _____ Physical Address: 5400 Champion Blvd Boca Raton, FL 33496 Business Description: country club	Job Description: Housekeeping He/She will learn procedures for housekeeping and laundry through daily operations. S/he will experience the relationship between the housekeeping dept and the overall customer service provided at the hotel. S/he will then shadow the housekeeping manager and learn to schedule and coordinate the staff. S/he will learn to inspect and control quality of the housekeeping dept. Pre-requisite & Knowledge Required: Experience in the specific areas not necessary. Training is available. ALL PARTICIPANTS NEED A BACKGROUND CHECK. English Skills Required: high intermediate.	Payment Schedule: Bi-weekly (every other Thursday). Salary/Wage: \$ _____ 7.50 _____ /hour (OT: \$ _____ 13.50 _____ /hour) Hours/week: 40h/week, OT potential Dress Code/Grooming guidelines: Uniform provided. Clean cut, short hair, no jewelry for men. Must be polished and groomed professionally. Food: One free meal per day will be provided.
***Start / End dates & availability of work may be affected by inclement weather or seasonal demand. ALL employees MUST commit to work through May 15, 2010.		

Housing
Housing is in the immediate area of the club. Housing is in apartments 2 & 3 bedroom/ 2 bathrooms. Two people per room/ own twin bed. All furnishings, washer/dryer included. No deposit. Linens/towels provided. Rent is \$130 per week payroll deducted. Housing is co-ed.

Transportation: Please provide detailed directions to your company. Please use an additional sheet of paper and attach it to this form if needed.	
Transportation to and from work: Will be provided by the Polo Club.	Nearest airport: Fl. Lauderdale, Florida or West Palm Beach

Signatures
By signing below, I INDICATE THAT I MEET ALL THE NECESSARY REQUIREMENTS AND PREREQUISITES AS OUTLINED, AND THAT I AM AVAILABLE FOR THE ENTIRE EMPLOYMENT PERIOD AS EXPRESSED ABOVE. I understand and accept all working and housing conditions as outlined. I also acknowledge that I accept all of the terms and conditions listed on my original application. Once program attendance has begun, no refunds will be granted, regardless of the length of time remaining for the scheduled program(s). I FULLY REALIZE THAT I MAY NOT CHANGE HOST COMPANIES. Leaving a host company without authorization is a violation of the H2B program and will not be tolerated. I understand that I must contact and discuss any problem I may encounter at my job site or with my housing with my U.S. Opportunities Representative. U.S. Opportunities does not have the authority to grant visas.

Participant Name (please print): EDUARDO L. BALLE

Participant Signature: _____

Date (mm/dd/yyyy) OCT / 25 / 2009

Overseas contact name (please print): Bia Molina / Mike Lombardi

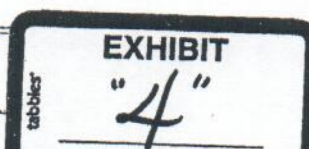
Overseas contact signature: _____

Date (mm/dd/yyyy) _____ / _____ / _____

Host company contact name (please print): Teri Borowski

Host company signature: _____

Date (mm/dd/yyyy) _____ / ANTIG0002238



ANTIGO000436

EXHIBIT
"6"